



Dodge County, Wisconsin Nonmetallic Mining Reclamation Ordinance



Dodge County
Land Resources and Parks Department

Adopted August 15, 2017

Table of Contents

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<u>Section</u>	<u>Page</u>
1.0 <u>General Provisions</u>	1
1.1 Statutory Authorization	1
1.2 Purpose	1
1.3 Interpretation	1
1.4 Applicability and Exemptions	1
1.5 Definitions	1
1.6 Standards	1
1.7 Title	1
2.0 <u>Administration</u>	2
2.1 Permit Application	2
2.2 New Mines	2
2.3 Public Notice and Right of Hearing	2
3.0 <u>Issuance of Permit</u>	2
3.1 Permit Required	2
3.2 Alternative Requirements	3
3.3 Permit Duration	3
3.4 Permit Transfer	4
3.5 Previously Permitted Sites	4
3.6 Review	4
3.7 Permit Modification	4
3.8 Permit Suspension or Revocation	4
4.0 <u>Reclamation Plan</u>	5
4.1 Requirements	5
4.2 New Mines	5
4.3 Approval of Reclamation Plan	5
5.0 <u>Financial Assurance</u>	5
5.1 Requirements	5
5.2 New Mines	5
5.3 Public Nonmetallic Mining	5
6.0 <u>Annual Operator Reporting</u>	6
6.1 Contents and Deadline	6
6.2 Inspection in Lieu of Report	6
6.3 Retention of Annual Reports	6

7.0 <u>Plan Review Fees</u>	6
7.1 Amount and Applicability	6
7.2 Expedited Plan Review Fee	6
7.3 Relation to Annual Fee	6
8.0 <u>Annual Fees</u>	7
8.1 Areas Subject to Fees, Procedures and Deadline	7
8.2 Wisconsin Department of Natural Resources Share of Fee	7
8.3 Dodge County's Share of Fee	7
8.4 Reduced Fee for Inactive Mines	7
9.0 <u>Regulatory Reporting and Documentation</u>	7
9.1 Reporting	7
9.2 Documentation	7
10.0 <u>Completed Reclamation – Reporting, Certification and Effect</u>	7
10.1 Reporting	7
10.2 Reporting of Interim Reclamation	8
10.3 Certification of Completed Reclamation	8
10.4 Effect of Completed Reclamation	8
10.5 Effect of Inaction Following Report of Completed Reclamation	8
11.0 <u>Permit Termination</u>	8
11.1 Termination	8
12.0 <u>Enforcement</u>	9
12.1 Right of Entry and Inspection	9
12.2 Orders	9
12.3 Penalties	9

1.0 GENERAL PROVISIONS

1.1 Statutory Authorization

This ordinance is adopted pursuant to the authorization in Section 295.13, Wisconsin Statutes, and Section NR 135.32(1), Wisconsin Administrative Code.

1.2 Purpose

The purpose of this Ordinance is to establish a local program to ensure the effective reclamation of nonmetallic mining sites on which nonmetallic mining takes place in Dodge County after the effective date of this Ordinance.

1.3 Interpretation

In their interpretation and application, the provisions of this Ordinance shall be held to be the applicable requirements for nonmetallic mining reclamation and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes outside the reclamation requirements for nonmetallic mining sites required by subchapter I of Chapter 295, Wisconsin Statutes and Chapter NR 135, Wisconsin Administrative Code. Where any terms or requirements of this Ordinance may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this Ordinance is required by Wisconsin Statutes, or by a standard in Chapter NR 135, Wisconsin Administrative Code, and where the provision is unclear, the provision shall be interpreted to be consistent with the Wisconsin Statutes and the provisions of Chapter NR 135, Wisconsin Administrative Code.

1.4 Applicability and Exemptions

1.4.1 The requirements of this Ordinance apply to all operators of nonmetallic mining sites within Dodge County operating on or commencing to operate after August 1st, 2001 and as provided in Sections NR 135.02(1) and (2), Wisconsin Administrative Code except for nonmetallic mining sites located in a city, village or town within Dodge County that has adopted an ordinance pursuant to Section 295.14, Wisconsin Statutes, and Section NR 135.32(2), Wisconsin Administrative Code.

1.4.2 This Ordinance does not apply to the exempt activities listed in Section NR 135.02(3), Wisconsin Administrative Code.

1.5 Definitions

All definitions for the purposes of this Ordinance are those contained in Section NR 135.03, Wisconsin Administrative Code.

1.6 Standards

All nonmetallic mining sites subject to this Ordinance shall be reclaimed in conformance with the standards contained in Subchapter II of Chapter NR 135, Wisconsin Administrative Code.

1.7 Title

Nonmetallic Mining Reclamation Ordinance, Dodge County, Wisconsin.

2.0 ADMINISTRATION

2.1 Permit Application

2.1.1 Required Submittal

The operator of all nonmetallic mining sites that operate on or after August 1st, 2001 shall apply for a reclamation permit from Dodge County. All reclamation permit applications under this section shall be accompanied by the information required by Section NR 135.18 and Section NR 135.19, Wisconsin Administrative Code.

2.2 New Mines

The operator of any nonmetallic mine site that engages in or plans to engage in nonmetallic mining shall submit an application that meets the requirements of Sections NR 135.18 and Section NR 135.19, Wisconsin Administrative Code to Dodge County prior to beginning operations. This application shall be accompanied by a plan review fee as specified in 7.0.

2.3 Public Notice and Right of Hearing

2.3.1 New Mines

Dodge County shall provide public notice and the opportunity for a public informational hearing as set forth in Sections NR 135.20(1) and (2), Wisconsin Administrative Code for any nonmetallic mining site for which a complete reclamation permit application that satisfies 2.2 is received.

2.3.2 Local Transportation-Related Mines

No public notice or informational hearing is required for a nonmetallic mining reclamation permit issued to a local transportation-related mine pursuant to 3.1.5.

3.0 ISSUANCE OF PERMIT

3.1 Permit Required

Every operator of a nonmetallic mining site in Dodge County who engages in or plans to engage in nonmetallic mining shall obtain a reclamation permit issued under this section, except nonmetallic mining sites exempt from this Ordinance as provided in 1.4.2.

3.1.2 Permit Issuance for New Mines

Applications for reclamation permits for nonmetallic mining sites that satisfy 2.2 shall be issued a reclamation permit or otherwise acted on as provided in Section NR 135.21, Wisconsin Administrative Code. The permit shall require compliance with a reclamation plan submitted by the applicant that conforms with 4.3, and provision by the applicant of financial assurance that conforms with 5.0 payable to Dodge County prior to beginning mining.

3.1.3 Automatic Permit for Local Transportation-Related Mines

Dodge County shall issue an automatic permit under this subsection for any borrow site operated to provide material for a locally-administered transportation project that meets the criteria in Section NR 135.23(1)(a), Wisconsin Administrative Code. This automatic permit shall be issued according to the provisions of Sections NR 135.23(1)(b) through (j), Wisconsin Administrative Code.

3.1.4 Expedited Review

Any operator of a nonmetallic mining site may obtain an expedited review of a reclamation permit application by paying the expedited review fee specified in 7.2. The expedited review shall be carried out according to the provisions of Section NR 135.23(2), Wisconsin Administrative Code. Such expedited review shall not waive, shorten or otherwise affect the public notice and right of hearing pursuant to 2.0.

3.1.5 Permit Conditions

Permits issued under this section may include conditions as provided in Section NR 135.21, Wisconsin Administrative Code. One required condition shall be that new mines shall obtain financial assurance prior to beginning mining pursuant to Section NR 135.40, Wisconsin Administrative Code.

3.1.6 Permit Denial

An application for a nonmetallic mining reclamation permit shall be denied if any of the factors specified in Section NR 135.22, Wisconsin Administrative Code exist.

3.2 Alternative Requirements

3.2.1 Scope of Alternative Requirements Approvable

An operator of a nonmetallic mining site may request an alternative requirement to any reclamation standard. Such a request may be made only on the basis of the criteria set forth in Section NR 135.26(1), Wisconsin Administrative Code.

3.2.2 Procedures

The operator of a nonmetallic mining site requesting an alternate requirement shall demonstrate all the criteria in Section NR 135.26, Wisconsin Administrative Code. This shall be submitted in writing to the Department. Alternative requirements shall be approved by the Dodge County Planning, Development and Parks Committee.

3.2.3 Transmittal of Decision on Request for Alternate Requirements

The decision on a request for alternative reclamation requirements shall be in writing to the applicant and shall include documentation of why the alternative requirement was or was not approved.

3.2.4 Notice to Wisconsin Department of Natural Resources

Dodge County shall provide notice to the Wisconsin Department of Natural Resources as provided in Section NR 135.26(3), Wisconsin Administrative Code.

3.3 Permit Duration

A nonmetallic mining reclamation permit issued under this Ordinance shall last through operation and reclamation of the nonmetallic mining site, unless suspended or revoked pursuant to 12.2.2, or as limited under Section NR 135.27, Wisconsin Administrative Code where the mine operator is not the landowner.

3.4 Permit Transfer

A nonmetallic mining reclamation permit issued under this Ordinance shall be transferred to a new owner or operator upon satisfaction of the conditions in Section NR 135.28, Wisconsin Administrative Code.

3.5 Previously Permitted Sites

For any nonmetallic mining site which had a reclamation permit previously issued pursuant to Chapter NR 135, Wisconsin Administrative Code that becomes subject to reclamation permitting authority of Dodge County the previously-issued municipal reclamation permit's terms and conditions shall remain in force until they can be modified by Dodge County pursuant to 3.7.1.

3.6 Review

Any permitting decision or action made by Dodge County under this Ordinance may be reviewed as set forth in Section NR 135.30, Wisconsin Administrative Code.

3.7 Permit Modification

3.7.1 By Dodge County

A nonmetallic mining reclamation permit issued under this Ordinance may be modified by Dodge County if it finds that, due to changing conditions, such as circumstances set out in Section NR 135.27, the nonmetallic mining site is no longer in compliance with this Ordinance. Such modification shall be by an order conforming with the procedures in 12.2 and as provided in Section NR 135.24(1), Wisconsin Administrative Code.

3.7.2 By The Operator

If operator of any nonmetallic mine that holds a reclamation permit issued under this Ordinance desires to modify such permit or reclamation plan approved under this Ordinance, it may request such modification by submitting a written application for such modification to Dodge County. If due to changing circumstances, such as those set out in Section NR 135.27, the operator shall modify such permit or reclamation plan. In either case the application shall be acted on using the standards and procedures of this Ordinance and as provided in Section NR 135.24(2), Wisconsin Administrative Code.

3.7.3 Review

All actions on permit modifications requested or initiated under this section are subject to review under 3.6.

3.8 Permit Suspension or Revocation

3.8.1 Grounds

Dodge County may suspend or revoke a nonmetallic mining reclamation permit issued pursuant to this Ordinance if it finds any of the grounds listed in Section NR 135.25(1), Wisconsin Administrative Code.

3.8.2 Procedures

If Dodge County finds grounds for suspending or revoking a nonmetallic mining reclamation permit, it may issue a special order suspending or revoking such permit as set forth in 12.2.2.

3.8.3 Consequences

The consequences of a reclamation permit suspension or revocation order under 3.8.2 shall be as set forth in Sections NR 135.25(2) and (3), Wisconsin Administrative Code.

4.0 RECLAMATION PLAN

4.1 Requirements

All operators of nonmetallic mining sites subject to this Ordinance shall prepare and submit a reclamation plan that meets the requirements of Section NR 135.19, Wisconsin Administrative Code.

4.2 New Mines

The operator of any nonmetallic mining site that applies for a permit in conformance with 2.2 shall submit the reclamation plan required by 4.1 with its application for a reclamation permit.

4.3 Approval of Reclamation Plan

Dodge County shall approve, conditionally approve or deny the reclamation permit based on the reclamation plan submitted under this section in writing as part of permit issuance pursuant to 3.0 for new mines. Conditional approvals of reclamation permits shall be made according to 3.1.5, and denials of reclamation permits made according to 3.1.6. The operator shall keep a copy of the approved reclamation plan required by this section, once approved by Dodge County under this Ordinance, at the mine site or, if not practicable, at the operator's nearest office or place of business.

5.0 FINANCIAL ASSURANCE

5.1 Requirements

All operators of nonmetallic mining sites in Dodge County shall maintain an acceptable form of financial assurance that meets the requirements of Section 135.40, Wisconsin Administrative Code.

5.2 New Mines

The operator of any nonmetallic mining site that applies for a reclamation permit in conformance with 2.2 shall submit the proof of financial assurance required by 5.1 as specified in the reclamation permit issued to it under this Ordinance.

5.3 Public Nonmetallic Mining

The financial assurance requirements of this section do not apply to nonmetallic mining conducted by the State of Wisconsin, a state agency, board, commission or department, or a municipality.

6.0 ANNUAL OPERATOR REPORTING

6.1 Contents and Deadline

Annual reports shall be submitted by the operators of nonmetallic mining sites that satisfy the requirements of Section 135.36, Wisconsin Administrative Code. The annual report shall cover activities on unreclaimed acreage for the previous calendar year and be submitted by January 31st. Annual reports shall be submitted until reclamation at each nonmetallic mining site is certified as complete under 10.3. Annual reports shall be submitted using the Dodge County Nonmetallic Reclamation Annual Report Form.

6.2 Inspection in Lieu of Report

Dodge County may, at its discretion, obtain the information required in 6.1 by written documentation of an inspection it completes during a calendar year, as set forth in Section NR 135.36(4), Wisconsin Administrative Code.

6.3 Retention of Annual Reports

Annual reports submitted under this section or inspection records that replace them shall be retained by Dodge County for at least 10 years after the calendar year to which they apply to. These records, or accurate copies of them, shall be made available to the Wisconsin Department of Natural Resources upon written request or during its inspection or audit activities carried out pursuant to Chapter NR 135, Wisconsin Administrative Code.

7.0 PLAN REVIEW FEES

7.1 Amount and Applicability

A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under 2.2 shall submit a non-refundable plan review fee as specified in the Dodge County Fee Schedule. No plan review fee may be assessed under this section for any local transportation-related mine issued an automatic permit under 3.1.5. A separate plan review fee shall be paid under this section for any modification to an existing reclamation plan submitted pursuant to 3.7.

7.2 Expedited Plan Review Fee

A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under 2.2 may obtain expedited reclamation plan review by paying a fee as specified in the Dodge County Fee Schedule Ordinance. Such fee shall be in addition to that required in 7.1. The expedited plan review shall be completed within five business days.

7.3 Relation to Annual Fee

Any reclamation plan review fee or expedited reclamation plan review fee collected under this section shall be added to and collected as part of the first annual fee collected under 8.0.

8.0 ANNUAL FEES

8.1 Areas Subject to Fees, Procedures and Deadline

Operators of all nonmetallic mining sites subject to reclamation permits issued under this Ordinance shall submit an annual fee to Dodge County. Fees paid under this section shall include both a share for the Wisconsin Department of Natural Resources under 8.2 and a share for Dodge County under 8.3 that equals as closely as possible the costs of examination and approval on nonmetallic mining reclamation plans and the inspection of nonmetallic mining reclamation sites. These fees shall be calculated based on the amount of unreclaimed acres of each site, as defined in Section NR 135.39(1), Wisconsin Administrative Code and according to its provisions. Such fees apply to a calendar year or any part of a year in which nonmetallic mining takes place, until final reclamation is certified as complete under 10.0. Fees shall be paid to Dodge County on or before January 31st for the previous calendar year.

8.2 Wisconsin Department of Natural Resources Share of Fee

Fees paid under this section shall include a share for the Wisconsin Department of Natural Resources equal to the amount specified in Section NR 135.39(3), Wisconsin Administrative Code. For sites on which no nonmetallic mining has taken place during a calendar year, fees to be paid under this section for the following year shall be as specified in NR 135.39(6)(b).

8.3 Dodge County's Share of Fee

Fees paid under this section shall also include an annual fee due to Dodge County which shall be as specified in the Dodge County Fee Schedule Ordinance.

8.4 Reduced Fee for Inactive Mines

Any site on which no nonmetallic mining activity has taken place in a calendar year shall be assessed a fee as specified in the Dodge County Fee Schedule Ordinance.

9.0 REGULATORY REPORTING AND DOCUMENTATION

9.1 Reporting

Dodge County shall send an annual report to the Wisconsin Department of Natural Resources including the information required by Section NR 135.37, Wisconsin Administrative Code.

9.2 Documentation

Dodge County shall, to the best of its ability, maintain the information set forth in Section NR 135.47, Wisconsin Administrative Code, and make it available to the Wisconsin Department of Natural Resources for that agency's audit of Dodge County's reclamation program pursuant to Section NR 135.47, Wisconsin Administrative Code.

10.0 COMPLETED RECLAMATION – REPORTING, CERTIFICATION AND EFFECT

10.1 Reporting

The operator of a nonmetallic mining site may certify completion of reclamation for a portion or all of the nonmetallic mining site pursuant to a reclamation plan prepared and approved pursuant to this Ordinance and Chapter NR 135, Wisconsin Administrative Code.

10.2 Reporting of Interim Reclamation

The operator of a nonmetallic mining site may report completion of interim reclamation as specified in the reclamation plan for the site prepared and approved pursuant to this Ordinance and Chapter NR 135, Wisconsin Administrative Code. Reporting of interim reclamation shall be done according to the procedures in 10.1.

10.3 Certification of Completed Reclamation

Dodge County shall inspect a nonmetallic mining site for which reporting of reclamation or interim reclamation has been submitted pursuant to this subsection within 60 days of receipt, and make a determination in writing in accordance with Section NR 135.40(7)(c), Wisconsin Administrative Code. If it is determined that interim or final reclamation is complete, including revegetation as specified in a plan that conforms with 4.0, Dodge County shall issue the mine operator a written certificate of completion.

10.4 Effect of Completed Reclamation

If reclamation is certified by Dodge County as complete under 10.3 for part or all of a nonmetallic mining site, then:

10.4.1 No fee shall be assessed under 8.0 for the area so certified.

10.4.2 The financial assurance required by 5.0 shall be released.

10.5 Effect of Inaction Following Report of Completed Reclamation

If no written response as required by 10.3 for an area of the mine site reported as reclaimed or interim reclaimed is given within 60 days of receiving such request, any annual fee paid to Dodge County for it under 8.0 shall be refunded.

11.0 PERMIT TERMINATION

11.1 Termination

When all final reclamation required by a reclamation plan conforming to 4.0 and required by this Ordinance is certified as complete pursuant to 10.0, Dodge County shall issue a written statement to the operator of the nonmetallic mining site, thereby terminating the reclamation permit.

12.0 ENFORCEMENT

12.1 Right of Entry and Inspection

For the purpose of ascertaining compliance with the provisions of Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, or this Ordinance, any authorized officer, agent, employee or representative of Dodge County may inspect any nonmetallic mining site subject to this Ordinance as provided in Section 295.17(1), Wisconsin Statutes and Section NR 135.42, Wisconsin Administrative Code.

12.2 Orders

12.2.1 Enforcement Orders

Dodge County may issue orders as set forth in Section 295.19(1)(a), Wisconsin Statutes to enforce Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this Ordinance, a permit issued pursuant to this Ordinance, or a reclamation plan required by 4.0 and a permit issued under this Ordinance. A violation of this Ordinance, an order or permit issued pursuant to this Ordinance, or a reclamation plan required by 4.0 and a permit issued under this Ordinance shall be considered a violation of Subchapter I of Chapter 295, Wisconsin Statutes and Chapter NR 135, Wisconsin Administrative Code.

12.2.2 Special Orders

Dodge County may issue a special order as set forth in Sections 295.19(1)(b) and (c), Wisconsin Statutes suspending or revoking a nonmetallic mining reclamation permit pursuant to 3.8, or directing an operator to immediately cease an activity regulated under Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code or this Ordinance until the necessary plan approval is obtained.

12.2.3 Review Orders

An order issued under 12.2.1 or 12.2.2 may be reviewed as provided in Section NR 135.43(2), Wisconsin Administrative Code.

12.2.4 Enforcement

Dodge County may submit any order issued under 12.2 to the district attorney, the corporation counsel, the municipal attorney or the attorney general for enforcement as provided in Section 295.19(1)(d), Wisconsin Statutes.

12.3 Penalties

Any violation of Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this Ordinance, a permit issued pursuant to this Ordinance or a reclamation plan required by 4.0 and a permit issued under this Ordinance may result in forfeitures as provided in Section 295.19(3), Wisconsin Statutes.